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Security Council

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S/1996/182
12 March 1996

ORIGINAL: ENGLISH

LETTER DATED 9 MARCH 1996 FROM THE EXECUTIVE CHAIRMAN OF THE SPECIAL COMMISSION ESTABLISHED BY THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 9 (b) (i) OF SECURITY COUNCIL RESOLUTION 687 (1991) ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to the consultations held by the members of the Security Council on 8 March 1996, regarding the situation which had arisen in Baghdad where Iraq was denying a Special Commission inspection team access to a facility which had been designated for inspection, despite Iraq's obligations under Council resolutions 687 (1991), 707 (1991) and 715 (1991) to grant immediate, unconditional and unrestricted access to any such facility. At the request of the members of the Council, the Permanent Representative of Iraq was called in by you, as President, to express the Council's deep concern at the situation and to require Iraq to meet its obligations under the relevant resolutions of the Council. The members of the Council also agreed that the President should brief the press to the same effect. They further decided to meet again on the morning of 9 March to consider the adoption of a statement by the President of the Council, in order to secure Iraq's compliance with its obligations if, in the interim, Iraq had not permitted access to the site under circumstances which met all the requirements of the Commission for the proper conduct of an inspection.

Following on the President's briefing of the press, the Executive Chairman of the Commission remained in contact, throughout the night of 8-9 March, New York time, with the Deputy Prime Minister of Iraq, Mr. Tariq Aziz, and with the Deputy Executive Chairman of the Commission in Baghdad and the Chief Inspector of the inspection team stationed outside the facility concerned, seeking a solution to the situation. After a prolonged exchange, an arrangement was arrived at whereby initial access to the facility would be granted to the Chief Inspector and 12 of his experts, with the Chief Inspector having the right, if he determined that his investigation so required, to call in as many of his additional experts as might be needed. The Chief Inspector so determined, a team of some 28 experts being finally involved in the inspection. Once inside the facility, the inspection was allowed to proceed unhindered.

When these facts were reported by the Chairman of the Commission to the President of the Council, the President decided not to convene the projected meeting of the Council at 11 a.m. on 9 March. It was agreed, instead, that a

written report should be sent by the Chairman to the President of the Council, which could be circulated for the information of the members of the Council. Attached to this letter is a schedule of the principal developments relating to this matter (see annex).

While the delay occasioned by Iraq in permitting this inspection to proceed may call into question whether steps were taken by Iraq to dispose of documents and other items relating to its proscribed weapons programmes, there can be no doubt that the prompt action taken by the Council to call in the Permanent Representative of Iraq, to authorize a press briefing by the Council's President and to agree to meet again within a matter of hours if a satisfactory solution was not found, was decisive in obtaining Iraq's decision to permit a full inspection of the facility to proceed under circumstances acceptable to the Commission.

Once again, the unanimity of the members of the Council in support of the rights of the Commission and of the International Atomic Energy Agency (IAEA) - in particular the right of immediate, unconditional and unrestricted access for purposes of inspection to any and all areas, facilities, equipment, records and means of transportation - has resulted in the resolution of a situation which, if prolonged, could have given rise to a much more serious confrontation. Iraq, by refusing access to the facility concerned, was in violation of its obligations under the cease-fire and related resolutions of the Council. In similar circumstances in the past, the Council has characterized such a refusal as a "material and unacceptable breach" of resolution 687 (1991). Unless the Commission's rights in respect of access are fully respected, it will be unable to discharge its mandate to ensure that Iraq's proscribed weapons and facilities have been disposed of in the manner required by the Council. It is hoped that, faced once again with the unanimity of the Council, Iraq will not in the future seek to refuse the Commission and IAEA the full exercise of their rights under the relevant resolutions of the Council.

(Signed) Rolf EKEUS
Executive Chairman
Office of the Special Commission

Annex

Chronology of developments

8 March

1300 (EST) - The Chief Inspector and team arrive at site for inspection. A senior Iraqi official refuses to grant access. The Chief Inspector reminds Iraqi officials of the Commission's right to have access to any site in Iraq, regardless of its status. The site is secured by Commission inspectors.

1400 - The Deputy Executive Chairman meets General Amer Sa'adi. General Sa'adi offers that the building could be entered by the Deputy Executive Chairman and certain members of the Diplomatic Corps for the purpose of determining whether it was the Ministry of Irrigation. The Commission refuses to accept this offer.

1520 - The Executive Chairman briefs the President of the Council. This is followed by informal consultations in the Council, at which the Executive Chairman briefs on the situation.

1700 - The President of the Council calls in the Iraqi Permanent Representative.

1845 - The Council resumes informal consultations and agrees that it will meet the following morning if the situation is not resolved.

2000 - The President of the Council briefs the media.

2330 - The Deputy Executive Chairman relays the Executive Chairman's demand to General Sa'adi that Iraqi staff not be admitted to the site under inspection. General Sa'adi states that a normal working day has been authorized. Workers proceed to enter the building. At this time, General Sa'adi reaffirms that inspectors will not be permitted to enter.

9 March

0400 - Following several rounds of discussions by telephone between the Executive Chairman and the Deputy Prime Minister of Iraq, agreement is reached that 13 inspectors would enter the building at 6.30, and that if necessary the Chief Inspector could immediately call for additional unlimited numbers of experts to support the full exploitation of the site.

0630 - The Chief Inspector and 12 other inspectors enter the site and are quickly joined by other experts from the team. The inspection proceeds.

All times are EST and are only approximate.

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LETTER DATED 12 MARCH 1996 FROM THE PRESIDENT OF THE SECURITY COUNCIL ADDRESSED TO THE EXECUTIVE CHAIRMAN OF THE SPECIAL COMMISSION ESTABLISHED BY THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 9 (b) (i) OF SECURITY COUNCIL RESOLUTION 687 (1991)

The members of the Security Council have followed with concern the incident described in your letter of 9 March 1996 (S/1996/182), when immediate access was not allowed by the Iraqi authorities to a Special Commission inspection team which sought access to a site in Baghdad designated for inspection by the Commission. The members of the Council have also learned with concern of the further incident on 11 March 1996, when an inspection team was again not allowed immediate and unconditional access to a site similarly designated by the Special Commission. In both cases access was subsequently granted only after unacceptable delays.

The members of the Council fully support your continued efforts and those of the inspection teams in Iraq on the basis of the relevant Security Council resolutions. They endorse the contents of your letter of 9 March 1996. They recall that under paragraph 9 (b) (i) of section C of Security Council resolution 687 (1991), Iraq is required to permit "immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the Special Commission itself". By its resolution 707 (1991) the Council also expressly demanded that Iraq "allow the Special Commission, the International Atomic Energy Agency and their inspection teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect". The obligation if furthermore confirmed in the Commission's plan for ongoing monitoring and verification which was approved by the Security Council in resolution 715 (1991).

The members of the Council consider that Iraq's delay in permitting the inspection team currently in Iraq access to the sites concerned constitutes a clear violation by Iraq of the provisions of resolutions 687 (1991), 707 (1991) and 715 (1991). The members of the Council reiterate that the Government of Iraq must allow the Special Commission inspection team immediate, unconditional and unrestricted access to all sites designated by the Commission for inspection.

The members of the Council reiterate their full confidence in the execution by the Special Commission of the tasks entrusted to it by the Council.

(Signed) Legwaila Joseph LEGWAILA
President of the Security Council